

Pre-Petition Diversion for Youth

Policy and Procedures

Effective July 1, 2016

**West Virginia Department of Health and Human
Resources**

Bureau for Children and Families

Office of Children and Adult Services

Pre-Petition Diversion

The following document is intended to provide information and guidance on the process and requirements for Pre-Petition Diversion referrals and casework

Introduction

Diversion is the process by which youth who are in immediate risk of contact with the judicial system for nonviolent, low level offenses are referred by the Prosecutor to the Department of Health and Human Resources' Bureau for Children and Families, the Division of Probation Services, or a Truancy Diversion Specialist to receive intervention planning and services in an effort to prevent the filing of a petition.

It is anticipated that each judicial circuit will implement diversion programming in its own unique way. Though diversion processes may be different, the basic mandated requirements as outlined below, and codified in **49-4-702**, are the same.

Statutory Authority

WV Code 49-4-702 provides a basic framework for mandatory diversion cases. While it does not require the prosecutor to divert all youth, it does **require** the prosecutor to refer any youth who are first-time status offenders and **requests** the prosecutor refer low-level, non-violent misdemeanants who are believed to be able to be maintained safely in their home and communities. All referrals from the prosecutor's offices to the Bureau for Children and Families are considered mandatory referrals for diversion. These referrals must be opened and planned for according to the provisions of the code and as provided for below.

Procedures

Referrals from county prosecutors for a youth to a diversion program may not be screened out and must be accepted for assessment. Referrals for diversion will be processed through centralized intake.

When a referral for diversion is received, the worker should make initial contact with the family as soon as possible in order to schedule interviews with the family members. Within thirty (30) days the worker must:

- Interview all relevant family members, probing for information related to the reasons the youth is at-risk for involvement with the judicial system:
 - Relevant family members may include family members who do not live in the youth's primary residence, but play a significant role in the child's life.

- Biological parents, step-parents (if applicable), and siblings of appropriate developmental age that have a relationship with the referred youth must be interviewed;
- Interview relevant collateral(s):
 - Probation officers, school personnel, and other person(s) who may be aware of the youth's situation should be interviewed for important and relevant information;
- Complete the CANS assessment:
 - The worker may also refer for a CAPS assessment to obtain the necessary CANS assessment. If the worker chooses to refer for a CAPS, the worker will still be required to obtain the CANS 14 day assessment within the specified timeframe appropriate for case planning;
- Return to the family to discuss the results of the CANS and discuss case planning:
 - Case and service planning should be an engaged process with the family, asking their opinions, feelings, and concerns along the way;
- The worker will develop the diversion plan using the "Family Service Plan" in FACTS:
 - Services determined necessary must be documented appropriately on the case plan;
 - Case planning should include services for the youth, and family (as appropriate)
 - The worker may request an order from the court to enforce involvement by the youth or family with the case plan.

Note: How these orders are obtained may vary throughout the circuit court districts. It is recommended the worker discuss the need for such an order with the county prosecutor's office for the county's process.

Once the plan is complete, the worker will need to identify the youth being referred for services, print the case plan, and obtain the signatures of the parents, the worker and the worker's supervisor. These signatures acknowledge that the identified youth, and his/her family, have been referred for preventive services. The family must understand that if the services do not result in resolution to the identified risks and reasons the youth was referred, the youth is at imminent risk of being placed in a foster care setting for rehabilitation. The worker must provide a copy of the completed case plan to the family, and any providers to whom the family is referred for services. Additionally, the worker will need to:

- Obtain consent from the family for participation in the diversion plan:
 - Have the "Diversion Participation Consent Form" signed by authorized parties and have documented appropriately in the FACTS system and paper record;
 - If the youth or family refuses to participate, the worker should attempt to mediate the disagreements and make any changes that are reasonable and necessary to obtain consent;
 - If the youth's family still refuses, the youth and/or family should be informed that a refusal to participate will require notification to the county prosecutor and may result in court action.

Finally, the worker will need to upload the completed CANS assessment and signed “Family Service Plan” to the FACTS filing cabinet.

Once necessary services have been identified, the worker must begin the process of referring for the needed services. Service providers utilized during the diversion process are required to respond within seventy-two (72) hours of the referral from the worker. It is the worker’s responsibility to notify the service provider of the need to respond timely and ensure this occurs. If a service provider is unwilling or unable to respond within the codified timeframes, the worker should determine if another service provider may be utilized. If no other service provider is available to meet the identified needs of the youth or family, the worker must thoroughly document in the contacts screen in FACTS the reasons the provider was unable to meet the mandatory timeframes and efforts to locate other providers. The worker will need to make frequent contact with the family until the service provider is able to respond.

Progress Review

The worker must review the progress of the youth and family monthly. The worker will be required to make required face-to-face visits with the youth and family. These visits should focus on:

- Ensuring the safety of all members of the household;
- Engaging the family, obtaining their opinions on the progress of services;
- Determining if additional services may be needed;
- Determine if there are problems with existing services; or
- Having necessary discussions with the family to help the worker determine case progress.

Additionally, the worker should receive monthly summaries from all formal providers and should speak with all informal providers to obtain the needed feedback to help determine how the family is responding to diversion services. Contacts with providers are not required to be face-to-face and may occur through electronic correspondence or telephonic communications. All conversations completed, or attempted, should be documented in the FACTS system.

Case Review

Every ninety (90) days, the worker will be required to complete a case plan review, consistent with already established policies and procedures. This will allow for the worker to review the completed CANS assessment to further determine progress and make any needed adjustments. There is no pre-determined case length for diversion, but should not be closed prior to a formal case review being completed. Case plan reviews will help the worker to determine when sufficient progress has been made to justify a family’s case being closed. (Please refer to section 6 of the Youth Services policy for information on how to complete a case plan review).

If a youth and family have shown enough progress that services are no longer needed, or the family has made considerable progress and is able to obtain needed services through resources other than the Department, it may be appropriate to close the case. The worker should review the case prior to closure with his or her supervisor for approval. If referrals to community services appear warranted and may be accessed without department intervention, the worker should ensure he or she has provide the assistance and guidance needed to the family to make the referrals prior to case closure. The referring prosecutor should be notified of the successful completion of a youth's diversion, by submitting the "Disposition of Diversion Referral" form.

If a youth and his or her family are struggling to make progress or are refusing to cooperate, the worker must implement a series of steps to address the issue. The worker must:

- Attempt to determine what issues exist and why;
- Determine if steps can be taken to remedy the issues without court involvement;
- Determine if court intervention will be necessary to enforce parental or youth participation.

If attempts have been made to address the lack of cooperation, or the youth or family is not making significant progress, the worker must request a "Pre-petition Review Team", or Child and Family Team, to meet and discuss case progress.

Child and Family Review Team

The Child and Family Team, or "Pre-petition Review Team", shall consist of (at minimum) the youth, the family, relevant service providers, the juvenile probation officer, the case worker and any other individual(s) the child or family would like to participate. Appropriate school personnel should also be invited, especially if the school is the primary area the youth is having difficulties, or if it appears they may have valuable information to contribute. The location and time of the meeting should be one which is convenient for the family. The worker should utilize the Child and Family Team referral form to provide notification of the location and time the meeting is to occur. The date and time of the meeting must be within fourteen (14) days of the referral. The worker will document the completed referral form, participants and meeting outcome in "contact" screens in FACTS.

The Child and Family Team, or "Pre-petition Review Team" should evaluate the case and current case plan and determine an appropriate course of action. The Child and Family Team, or "Pre-petition Review Team" may:

- Renegotiate a new case plan;
- Refer the matter to Child Protective Services; or,
 - The worker must discuss the case and problems in the case with a child protective services supervisor, or social services coordinator, prior to the meeting time to determine if this would be an appropriate action.
- File a petition.

The recommendation to file a petition should be the last resort. This recommendation should only be made when a resolution cannot be achieved or the youth or family continues to refuse to cooperate with any plan.

If the recommendation is to file a petition, the worker will need to complete a court report which will include a description of the issues which lead to involvement with the Bureau for Children and Families, needs and strengths as identified through the CANS, services the family has received, and the date and outcomes of the Child and Family Team, or “Pre-petition Review Team”.